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White House Minimized the Risks of Mercury in Proposed Rules, Scientists Say

By JENNIFER 8. LEE

WASHINGTON, April 5 — While working with Environmental Protection Agency officials to write regulations for coal-fired power plants over several recent months, White House staff members played down the toxic effects of mercury, hundreds of pages of documents and e-mail messages show.

The staff members deleted or modified information on mercury that employees of the environmental agency say was drawn largely from a 2000 report by the National Academy of Sciences that Congress had commissioned to settle the scientific debate about the risks of mercury.

In interviews, 6 of 10 members of the academy's panel on mercury said the changes did not introduce inaccuracies. They said that many of the revisions sharpened the scientific points being made and that justification could be made for or against other changes. Most changes were made by the White House's Office of Management and Budget, which employs economists and scientists to review regulations.

But scientists on the academy panel and others outside it as well as environmentalists and politicians expressed concern in recent interviews that a host of subtle changes by White House staff members resulted in proposed rules that played down the health risks associated with mercury from coal-fired power plants. The proposal largely tracks suggestions from the energy industry.

While the panel members said the changes did not introduce outright errors, they said they were concerned because the White House almost uniformly minimized the health risks in instances where there could be disagreement.

"What they are saying is not scientifically invalid on its face," said Alan Stern, a New Jersey toxicologist who served on the panel. "Partially they edited for clarity and relevance from a scientific standpoint. But there appears to be an emphasis on wordsmithing that is not necessarily dictated by the science."

Last Thursday attorneys general from 10 states and 45 senators asked the E.P.A. to scrap the proposed rules, saying they were not strict enough.

They also asked Michael O. Leavitt, the agency's administrator, to extend the comment period for the rules, which now ends April 30. Under a court-ordered agreement, the rules are to be in final form by Dec. 15.

In some cases, White House staff members suggested phrasing that minimized the links between power plants and elevated levels of mercury in fish, the primary source from which Americans accumulate

mercury in their bodies, in a form known as methylmercury.

The academy has found that exposure to elevated levels of mercury can damage the brains of children and fetuses.

In another instance, a draft passage originally read, "Recent published studies have shown an association between methylmercury exposure and an increased risk of heart attacks and coronary disease in adult men."

It was changed to "it has been hypothesized that there is an association between methylmercury exposure and an increased risk of coronary disease; however this warrants further study as the new studies currently available present conflicting results."

The change understates known science, some academy panel members said in interviews.

The proposed regulations are available on the E.P.A. Web site (epa.gov/). The proposed rules would limit mercury emissions by an estimated 70 percent over decades and would also allow power plants to buy and sell among themselves the rights to create mercury pollution.

Mr. Leavitt is reconsidering elements of the rules.

Small amounts of mercury occur naturally in the environment. In December 2000, however, the environmental agency concluded that mercury from power plants should be classified as a hazardous air pollutant to be strictly regulated under the Clean Air Act. In December 2003, the Bush administration reversed that finding.

The proposed regulations for power plants — the single-largest source of mercury emissions in the United States — are the culmination of 14 years of lawsuits, scientific review and government reports.

Coal and utility groups lobbied intensively to help shape the regulations, which will cost billions of dollars. Paragraphs in the proposed rules are inserted nearly verbatim from memorandums from the firm of Latham & Watkins, where two top political officials in the E.P.A.'s office overseeing air regulations, Bill Wehrum and Jeffrey Holmstead, once worked.

White House officials and E.P.A. political appointees say the changes in the draft rules reflect the typical back and forth of developing regulations among agencies, and environmental agency officials had the option of rejecting the suggestions, which in some cases they did.

"This is a standard collaborative process that involved experts across the government to create a solid product," said Dana Perino, the spokeswoman from the Council on Environmental Quality, which coordinates federal environmental efforts.

But some critics are not convinced. "This is a pattern of undermining and disregarding science on political considerations," said Senator Hillary Rodham Clinton, Democrat of New York, citing a recent letter by the Union of Concerned Scientists, signed by 60 scientists, including 20 Nobel laureates, which criticized the administration's handling of science issues.

Others feel the White House's Office of Management and Budget is overstepping its bounds. "O.M.B.'s role is supposed to be to review the economics of rules — which they did very poorly here — not to fly speck the science and minimize health threats," said Lisa Heinzerling, a professor at Georgetown

University who is a co-author of the book "Priceless," on cost-benefit analysis.

Throughout an E.P.A. draft of the proposed regulations circulated in November, a White House staff member crossed out the word "confirmed" from the phrase describing mercury as a "confirmed public health risk." In some instances, sentences in the final proposals were changed to mercury "warrants regulation."

Mr. Wehrum, the chief counsel of E.P.A.'s air regulation office, said that the handwritten changes were prompted by his agency's desire to use more precise legal language from the Clean Air Act.

Some members of the National Academy said that sections of the regulations on health effects could have been made more clear, but that the science was strong enough not to delete them entirely.

An official with the Office of Management and Budget who emphasized that neurologic risks to children were the most important concern, said language on other health effects was deleted or softened for a number of reasons. In some cases the draft had overstated the known science, while in others, like cerebral palsy, the effects were not relevant to mercury exposure in fish or power plants.

Even taking into account studies that have been published since their report in 2000, some panel members said the language was made too soft in several cases.

"There is increasing evidence of an association between mercury exposure and cardiovascular effects," said Thomas Burke, an epidemiologist from Johns Hopkins University and a member of the panel. "I would call it stronger than a hypothesis."

In another case, a toxicologist with the Office of Management and Budget recommended changes to a sentence saying children exposed to mercury in the womb "are at increased risk of poor performance on neurobehavioral tests." The final sentence that was published said children "may be at increased risk." That pattern was repeated a number of times throughout regulations where "are" or "can" was changed to "may." The official said that the softened language reflected the fact that low levels of mercury exposure below the safe dose were not known to be risky, even to children.

Other scientists interpret the edit differently. Joseph L. Jacobson, a professor of psychology at Wayne State University, who served on the academy panel, said, " 'May be' suggests an effort to discount the fact that we have consistent evidence across more than one study."

While it is standard for the White House to review federal agency testimony and reports, E.P.A. staff members say the Bush administration also minimized the amount of mercury that comes from power plants. Over agency staff objections, the White House on several occasions in the past year added the statement that coal burning produces "roughly one percent of mercury in the global pool."

According to the E.P.A. staff, the 1 percent figure was added to an agency report on children's health; Senate testimony by Christie Whitman, who was the E.P.A. administrator; and Senate testimony of Mr. Holmstead, who is the assistant agency administrator for air.

While that figure is cited in the E.P.A.'s 1997 report to Congress, agency staff members and independent scientists say it is misleading because much of the mercury that ends up in the nation's water and soil comes from nearby sources.

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